ticular to the study of real property law. It is simply a question of means and methods. Mature law students should be expected to master their historical treatises by themselves and thus leave the classroom for the analysis and discussion of decided cases, particularly as these cases will themselves reflect and illustrate the historical background. After all, this portion of the work is a textbook and hence its use is properly as collateral reading.

Professor Bigelow's own idea is that this "Introduction" may more profitably be used in connection with Professor Aigler's *Cases on Titles*, for the first year property course. But it may be questioned whether the traditional plan is not preferable since the student first studies the easier cases on the subject here called "Rights in Land"—the defining of the point where the privileges of ownership cease and the rights of the neighbor commence—rather than the more difficult subjects of estates and deeds.

As the reviewer sees it, the most commendable feature of the book is the editor's use of the exact terminology set forth by Professor Hohfeld in his "Fundamental Legal Conceptions." Nowhere is the need of exact analysis and discriminating use of terms greater than in this subject,—the word "property" itself being a snare for the unwary. While Professor Bigelow's employment of the fundamental legal conceptions is disclosed most in a certain caution in expression, yet this itself is a guarantee of the care he has used in the choice of terms and insures against careless and misleading expression. In this connection he has an interesting and apposite suggestion that the conventional divisions of the subject follow a distinction between the legal relations considered. Thus he suggests that the casebook on *Titles* deals with "powers" and "immunities," while this book deals with "rights." But it would seem that he errs in failing to emphasize the importance of the "privilege" relation, for every case which decides against a right of action for one property owner thereby holds that another property owner has a "privilege." In fact he might have substituted for the less exact expression *Rights in Land*, the title *Rights and Privileges of Ownership*.

Nevertheless, the care taken in the use of terms is the final demonstration of the care with which the entire volume has been prepared.

CHARLES E. CLARK

The Conflict of Laws Relating to Bills and Notes, Preceded by a Comparative Study of the Law of Bills and Notes. By Ernest G. Lorenzen. New Haven, Yale University Press. 1919. pp. 337.

Professor Lorenzen's book is a timely and valuable contribution to the literature of bills and notes and to that of the conflict of laws. Its value and its interest lie equally in the materials collected, the method employed, and the purpose and conclusions of the author.

The first part of the book contains a concise study of the internal law of local bills of exchange of the more important European countries. The study is made from the standpoint of Anglo-American law, similarities being merely indicated, variations dealt with at some length. The survey includes of course the N. I. L., the Bills of Exchange Act, and the Hague Uniform Law of Bills of Exchange. The second part is made up of a very careful analysis and comparison of the conflict of laws rules now in force in England, the United States, and the major countries of Europe and South America on those bills and notes which have gotten into international or interstate commerce. The rules proposed by the Hague Convention for uniform adoption are also examined, together with the views of the leading jurists, past and present; and the author makes in each case a carefully weighed recommendation for

uniform adoption in this country of the rule he finds best suited to our conditions and our policy. The third part of the book reprints the various acts involved in the discussion. There is an eight-page bibliography, and an adequate index.

The first part is in itself enough to make the book worth while. Here is material—so far as is known, the only material in English—which no practitioner whose work involves international exchange can well do without. The treatment is not elaborate enough to show the solution under foreign law of the more intricate problems which may arise; but it is ample to point out to a man in what matters he may not trust his own judgment and experience, but must for safety sake seek the advice of local counsel. For the student or teacher of negotiable paper this part is no less interesting. Constant contact with a single set of doctrines brings one insensibly to the assumption that what is—in our own system—must be. Yet Professor Lorenzen confronts his reader with an almost bewildering set of divergencies in the simplest points; as, for instance, that in Europe a bill of exchange cannot run to bearer. It comes as a healthy shock to discover that rules which one has, by dint of reiteration, accepted as inevitable, have been doubted, or changed, or rejected, in civilized communities which seem, despite that fact, to get along. Even casual reading of the comparison means new breadth and scope in one's approach to the subject, and new insight into the way of growth among us of this branch of law, which from the one parent stock of the law merchant has under different conditions developed details so varied. To take a simple illustration, how can the "maker's intent" theory of our own requirement of words of negotiability even be argued for, when the Bills of Exchange Act makes instruments negotiable without such words? And surely light on the true explanation is afforded by knowledge that under the German law, a bill to be valid must bear in its body its designation in terms as such a bill.

The second portion of the book has received even more careful attention from the author than the first. Professor Lorenzen's aim is to provide materials for a future American uniform act on the conflict of laws rules relating to bills and notes, and to influence the draftsmen of such an act to approximate, in some degree, uniformity with foreign countries, and thus to approach that happy time when a case will be decided in the same way, regardless of what forum it may come before. Before any criticism can be attempted, however, either of aim or of method, some discussion of the basic aims and nature of the rules of conflicts is necessary. It is to be regretted that the author's views on these matters are nowhere in the book developed systematically; for they make enlightening, stimulating reading.[1] They can, however, be extracted in part from his method, and in part from his discussion. It is not always easy extracting. Professor Lorenzen is not a stylist. The full thought-value is not always apparent on the surface of his sentences; but the careful reader will find the ore amazingly rich.

Rules of the conflict of laws exist, like other rules of law, to settle disputes which arise, and which it is desirable to settle in a uniform fashion. The fact that the situation they deal with may come before any one of a number of forums makes a substantially uniform disposition of the case—i. e., certainty in similar dealings—in no way less desirable, but merely more difficult of attainment. And such a rule of uniform disposition of the case must, to

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[1] The writer has had the privilege of consulting the manuscript of Professor Lorenzen's admirable paper on *The Theory of Qualifications and the Conflict of Laws*, shortly to appear in the COLUMBIA LAW REVIEW, in which the author's theory of conflicts finds clear expression.

be just, and to endure, be fitted to the expectations which the people at large entertain who enter upon such transactions. Even in municipal law, however, we have long come to distinguish great bodies of rules which are in the main but the technical tools of technicians for the regulation of unusual cases; rules which exist merely for certainty's sake, and which might, for all the reaction they have upon the community, quite as well be the opposite of what they are. If a telegraphic offer is mangled in transmission, and "accepted," what difference does it make to the business community whether a contract has been formed or not? The only question is as to which party is to stand the immediate loss and so to have the ultimate right over against the telegraph company. These are rules governing cases where, in the general run of transactions, there *is* no real expectation of the parties, cases which the *mores* have never developed to cover. And because the most of us are not to any great extent concerned with international affairs, it is believed that the proportion of rules of this sort is in the conflict of laws unusually high. This is believed to be strikingly true in the matter of bills and notes. It is probably well ingrained in the *mores* of Western civilization that, by and large, a man should not be held liable civilly for an act which was wholly lawful under the law of the place where that act and its consequences occurred; but who would undertake to say that it makes a grave difference to business men whether an endorser undertakes in case of dishonor to pay at the place of his domicil, or of his commercial domicil, or where he became a party to the contract, or where the maker has agreed to pay?

It is clearly Professor Lorenzen's belief that our doctrines of the conflict of laws are yet in the main in a formative stage; and that many of those relating to bills and notes might be changed without any great damage to, or indeed any very noticeable strain on, the commercial fabric. Both of those positions seem to the reviewer sound and practical. Professor Lorenzen further advances the seemingly unusual, but vitally true proposition that no conflict of laws rule can be weighed against a rival rule until it is seen, by reference to internal legislations, whether it makes any difference which of the rules is adopted, and what that difference is. Hence his collection of material in Part I. Working along these lines, he examines the competing conflict of laws rules of bills and notes; makes note of the differences in their effects; examines how far this or that rule is in fact grounded in the *mores* of a nation, and so is not a subject of international compromise, and how far it is but a technical tool which is capable of compromise without serious impairment of the commercial usages of the country where it obtains at present; and, with American conditions in mind, he makes specific, rather conservative, recommendations as to what alterations would be desirable, and what feasible, in our own law on the subject. The aim and method of the work are equally sound. Undoubtedly any proposal for compromise of any kind will meet with intrenched opposition—opposition largely on the part of those technicians whose mastery of the present rules has given them at once an interest in the preservation of those rules, and, through long habit and familiarity, a sense that such rules are "just" in the absolute and are, regardless of their real relation to our life, vital to our interests. The Hague Conferences sufficiently bring out this attitude on the part of many of the delegates. That does not alter the value of Professor Lorenzen's work, nor affect the soundness of his approach.

In closing, recognition should be made of the intellectual stimulus to be found in the author's analysis of his subject matter, his careful sundering, in treatment and in thought, of aspects of contracts which it has been the tendency of our law, in the main, to lump together.

K. N. L.